UNITED NATIONS

A

General Assembly

Distr.
GENERAL

A/AC.109/1104
20 July 1992

ORIGINAL: ENGLISH

SPECIAL COMMITTEE ON THE SITUATION WITH REGARD TO THE IMPLEMENTATION OF THE DECLARATION ON THE GRANTING OF INDEPENDENCE TO COLONIAL COUNTRIES AND PEOPLES

ACTIVITIES OF FOREIGN ECONOMIC AND OTHER INTERESTS WHICH ARE IMPEDING THE IMPLEMENTATION OF THE DECLARATION ON THE GRANTING OF INDEPENDENCE TO COLONIAL COUNTRIES AND PEOPLES IN ALL TERRITORIES UNDER COLONIAL DOMINATION AND EFFORTS TO ELIMINATE COLONIALISM, APARTHEID AND RACIAL DISCRIMINATION IN SOUTHERN AFRICA

BERMUDA

Working paper prepared by the Secretariat

CONTENTS

	Paragraphs	Page
INTRODUCTION	1	2
I. GENERAL	2	2
II. INTERNATIONAL BUSINESS ACTIVITY	3 - 13	2

INTRODUCTION

1. Previous information on economic conditions in Bermuda with particular reference to foreign economic interests is contained in the working paper on the subject prepared by the Secretariat in 1991 (A/AC.109/1078). The working paper for the current session of the Special Committee (A/AC.109/1102) provides more recent information on general economic conditions in the Territory. Supplementary information on the activities of foreign economic interests in Bermuda is set out below.

I. GENERAL 1/

2. International company business is as important a contributor to the economy of Bermuda as its main industry, tourism. During the period under review, foreign companies continued to use Bermuda as their domicile for reasons that have changed little over the years. The Territory is attractive because there are no taxes on profits or income, and it has a good financial reputation. The regulatory system strives for sound financial business, yet is not so restrictive as to prevent businesses from prospering; it is flexible and allows companies freedom in conducting their business. Political stability is an important factor, as is the quality of the infrastructure provided by the Territory's banks and the expertise provided by a skilled and professional business community. Also, telecommunication links are excellent.

II. INTERNATIONAL BUSINESS ACTIVITY

3. In his budget speech to Parliament in February 1992, the Minister for Finance said that 696 new international businesses had registered in Bermuda in 1991, bringing the total of such businesses on the register at the end of 1991 to 7,090, an increase of 1.3 per cent over the 1990 figure. 2/

4. Several months previously, it was reported that the Government would institute measures that would make legislation affecting international business more responsive to the needs of the international community. The amendment bills were intended to ease the burden of costs on international companies and to ensure that they did not receive unfair treatment compared with domestic firms. The Government also made a special concession to insurance companies, which stood to lose most from the changes. 3/

5. In that regard, the Government submitted amendments to four acts in order to update legislation:

(a) The Companies Act of 1980 was amended in an effort to enhance the Territory's reputation as an offshore business centre;

(b) The amended Exempted Partnerships Act of 1958 was designed to make the Territory more attractive as a leading international business centre. It

also transferred ministerial responsibility for exempted partnerships from the Ministry of Labour and Home Affairs to the Ministry of Finance;

(c) The Insurance (Amendment) bill was aimed at the improvement of the regulatory process, with emphasis on self-regulation;

(d) A Stamp Duties (amendment) bill introduced administrative changes to the Stamp Duties Act of 1976. 3/ The Act had been amended the previous year to relieve the high operating costs of international companies (see para. 6).

6. In 1990, the Government took steps to abolish stamp duties that had previously been levied on all foreign companies. The decision was made after the Government determined that stamp duties on capital, which had been levied both at the time of incorporation and whenever capital was increased, were unpopular and might have deterred international companies from establishing businesses in the Territory. Reports indicated that the Government had expected to recover lost earnings through, among other means, the levy of an employment tax on international companies. 4/

7. In 1990, a study commissioned by the Government showed that, in 1989, international companies had paid B$ 19 million in taxes, duties, fees, levies and licences. 5/ The data also showed that the international companies registered in the Territory, which numbered 6,776, had spent B$ 314 million, of which more than half was spent by insurance companies. 4/

8. According to the same study, in 1989, some 270 international firms had a physical presence in Bermuda. They employed 1,271 Bermudians and paid B$ 52 million in salaries. Total business revenue, including secondary effects of spending by overseas firms, amounted to B$ 939 million. Corporate and personal investment-holding companies comprise the largest type of overseas firms, although few have offices in Bermuda or employ any Bermudians. 4/

9. The sector with the greatest presence on the island is the insurance industry. According to press reports, some 1,300 captive insurance companies, reinsurers and insurers registered in Bermuda in 1989 wrote B$ 12 billion worth of insurance business, and owned B$ 44.5 billion in assets. 4/

10. During the reporting period, captive insurance companies continued to dominate the type of insurance companies set up in Bermuda. Although some 64 new insurers had been added to the register, 53 had been removed, leaving a net increase of 11 exempted insurers. The gain of 11 captive insurance companies for Bermuda in the first six months of 1991 brought the total to 1,323, compared with 1,312 in 1990 and 1,314 in 1989. This gain ended a three-year pattern of net decline in the total number of captive insurance companies in Bermuda, where half of the world's 2,600 captive companies are located. The increase is significant, given the softness in the world insurance markets and the increased competition among the Territory's perceived competitors in the rest of the region, in general, and in Europe and the United States of America, in particular. 4/

11. During the period under review, the Territory was faced not only with competition from other insurance domiciles but also with proposed regulatory measures in the United States. The National Association of Insurance Commission is reportedly preparing to introduce a Model Act, which would inhibit captive insurance companies from doing business in the United States domestic market by restricting their ability to gain access through "fronting" or through licensed mainland insurers. Two other regulatory measures are also being proposed in the United States, namely, the passage of an insurance protection act and the establishment of a federal insurer solvency corporation, both of which aim to set up a regional commission to oversee the industry. 6/

12. According to press reports, three rulings have recently been handed down by United States courts against the United States Internal Revenue Service on tax deductibility and captive insurance companies. The Internal Revenue Service had argued that captive parent companies were not deduct as expenses premiums paid to its subsidiary company because the parent companies were responsible for the financial consequence of their own risks. The ruling was a victory for captive companies in their protracted battle against the Internal Revenue Service. 4/

13. Another area that the Bermuda international company business has managed to penetrate is the aircraft acquisition and lease financing industry. The United States aircraft leasing industry has begun using foreign sales corporations in Bermuda to finance its industry. Over an 18-month period beginning January 1990, some 30 companies with assets worth B$ 4 billion have been established in the Territory. Since a pre-condition of entitlement to the United States preferential tax dictates that the airline must be operated outside the United States, some of the largest international carriers, such as Air France, Cathay Pacific Airways Ltd., Lufthansa German Airlines, Qantas Airways and KLM Royal Dutch Airlines, are using Bermuda foreign sales corporations. United States legislation also specifies that foreign sales coporations maintain bank accounts outside the United States. The sums of money involved are in the millions of dollars, giving local banks a new source of revenue from fees. Also, the corporations have 20-year leases, thus ensuring a steady flow of revenue. 7/

Notes

1/ The information contained in the present paper has been derived from published reports.

2/ The Royal Gazette (Hamilton), 20 February 1992.

3/ Ibid., 2 and 8 November 1991.

4/ The Financial Times (London), 14 October 1991.

5/ One Bermuda dollar (B$ 1.00 is equivalent to one United States dollar (US$ 1.00).

Notes (continued)

6/ The Royal Gazette (Hamilton), 5 February 1992.

7/ Bermuda Sun (Hamilton), 7 June 1991.